



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,255	12/04/2000	Shakeel Mustafa		6653

7590 02/12/2004
SHAKEEL MUSTAFA
24831 Hendon St.
Laguna Hills, CA 92653

EXAMINER

LUU, LE HIEN

ART UNIT PAPER NUMBER

2141

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/729,255

Applicant(s)

MUSTAFA

Examiner

Le H Luu

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 4-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-21 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

1. Claims 1-21 are presented for examination.
2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - Group I. Claims 1-6, 12-16, 19-21, drawn to priority service in data link layer, classified in class 709, subclass 240.
 - Group II. Claims 7-11, drawn to adjust transmission rate, classified in class 709, subclass 242.
 - Group III. Claims 17-18, drawn to segment frame into sub-frames for transmission, classified in class 709, subclass 236.
3. The inventions are distinct, each from the other because of the following reasons:

Inventions Group I, Group II and Group III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Groups I-III have separate utility as discussed and admitted by applicant in the specification. See MPEP § 806.05(d).
4. In addition, group I contains claims directed to the following patentably distinct species of the claimed invention:
 - Species 1: claims 1, 2.
 - Species 2: claims 1, 3.
 - Species 3: claims 1, 4.

- Species 4: claims 1, 5.
- Species 5: claims 1, 6.
- Species 6: claims 1, 12.
- Species 7: claims 1, 13.
- Species 8: claims 1, 14.
- Species 9: claims 1, 15.
- Species 10: claims 1, 16.
- Species 11: claims 1, 19.
- Species 12: claims 1, 20.
- Species 13: claims 1, 21.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic claim for all species 1-13.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims

are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

5. The inventions are distinct, each from the other because of the following reasons:

- a. These inventions have acquired a separate status in the art as shown by their different classification
- b. The search required for one Group is not required for the other Groups

For the reasons above restriction for examination purposes as indicated is proper.

6. During a telephone conversation with Mr.Shakeel Mustafa on 02/06/2004 a provisional election was made without traverse to prosecute the invention of species 2 of Group I that includes claims 1 and 3. Affirmation of this election must be made by applicant in responding to this Office action. Claims 2 and 4-21 are being withdrawn

Art Unit: 2141

from further consideration by the Examiner, 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention.

7. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

8. Claims 2, 6, and 11 are objected to because of the following informalities: there are multiple periods in the claims. The claims should begin with a capital letter and ends with a period. Periods may not be used elsewhere in the claims except for abbreviations. Appropriate correction is required.

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless—

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language,

or

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application

Art Unit: 2141

by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

10. Claims 1 and 3 are rejected under 35 U.S.C. § 102(e) as being anticipated by **Mallory** Pub. No. US 2002/0042836.

11. As to claim 1, Mallory teaches the invention as claimed, including a method and system to support customized multi-priority services over any data-link communication layer frame type, comprising steps of:

assigning and reserving a single and plurality of bytes in a predefined location of a data-link frame, preferably adjacent to the trailing bytes of the data-link layer frame (figures 45-46; pages 20-21, para. 0321);

the reserved bytes are uniquely identified through a fixed byte distance from the trailing or ending flag of a data-link layer frame (figures 45-46; pages 20-21, para. 0321);

the reserve bytes only contain information pertaining to the operation of techniques used by said method and system (figures 45-46; pages 20-21, para. 0321);

the reserve bytes in the data-link layer frame represent sequence numbers such that each sequence number can be associated with a unique priority service class that needs to be transmitted or received over a single or multiple communication links (figures 45-46; pages 20-21, para. 0321); and

the reserve bytes in the data-link layer represent sequence numbers such that a predefined range of sequence numbers can represent a unique priority service class

Art Unit: 2141

being transmitted over a single or multiple communication links (figures 45-46; pages 20-21, para. 0321).

12. As to claim 3, Mallory teaches calculating CRC value dynamically over bytes of the data link frame as it is transmitted including the reserved bytes value; and updating the CRC calculation after transmitting a single or predetermined number of multiple bytes of the data link frame including the reserved bytes (pages 7-, para. 0122-0141).

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Le H. Luu, whose telephone number is (703) 305-9650. The examiner can normally be reached Monday through Friday from 7:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached at (703) 305-4003. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239.

Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9600.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

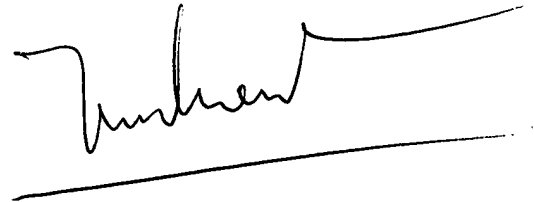
or faxed to:

(703) 872-9306, (for formal communications; please mark "EXPEDITED PROCEDURE").

Or:

(703) 872-9306 (for informal or draft communications, please label "PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

A handwritten signature in black ink, appearing to read 'Le Hien Luu', written over a horizontal line.

LE HIEN LUU
PRIMARY EXAMINER

~~February 09, 2004~~